

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

REGINALD B. WARE,  
Plaintiff,

v.

WELLS FARGO BANK, N.A. and  
WELLS FARGO BANK, N.A. d/b/a  
AMERICAS SERVICING COMPANY,  
  
Defendants.

Civil Action File No.

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**NOTICE OF REMOVAL TO FEDERAL COURT**

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**TO: The Honorable Judges of the United States District Court for the Northern District of Georgia, Atlanta Division**

COME NOW, Defendants Wells Fargo Bank, N.A. and Wells Fargo Bank N.A., d/b/a America's Servicing Company (collectively referred to herein as "Wells Fargo"), by and through counsel, and respectfully files this Notice of Removal of this action to this Court from the State Court of Gwinnett County, Georgia, where it is now pending, in accordance with 28 U.S.C. §§ 1331, 1367, and 1441. Wells Fargo supports this removal as follows:

### **BACKGROUND**

1. This lawsuit was filed by Plaintiff Reginald B. Ware ("Plaintiff") on January 19, 2016, in the State Court of Gwinnett County, Georgia, Civil Action No. 16-C-00273-6. A copy of the Complaint and all process, pleadings, and orders filed with the Gwinnett County State Court are attached hereto as **Exhibit 1**.

2. This action is removable to federal court pursuant to 28 U.S.C. § 1441 because it could have been filed originally in this Court pursuant to the federal question jurisdiction conferred by 28 U.S.C. § 1331.

3. Wells Fargo was served with personal service on January 19, 2016, and therefore, this removal is timely.

### **FEDERAL QUESTION JURISDICTION**

4. This action is properly removable pursuant to 28 U.S.C. § 1441(a), which provides in pertinent part that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction[ ] may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

5. Federal question jurisdiction exists over this removed action pursuant to 28 U.S.C. § 1331 because Plaintiff asserts federal causes of action under the

Telephone Consumer Protection Act and Fair Credit Reporting Act. See Luster v. Sterling Jewelers, Corp., 1:15-cv-2854-WSD \*6 (N.D. Ga., 2015)("the Supreme Court held that federal courts have subject matter jurisdiction over actions brought under the TCPA."); see also Lockard v. Equifax, Inc., 163 F.3d 1259, 1264-65 (11th Cir. 1998) ("We hold that the sole purpose of [15 U.S.C. § 1681p] is to allow state courts concurrent jurisdiction for actions brought under the FCRA, and that the provision of concurrent jurisdiction does not prohibit removal.")

### **VENUE**

6. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) because this district and division embraces the State Court of Gwinnet County for the State of Georgia, the forum in which the removed action was pending.

### **NOTICE**

7. Notice to the State Court of Gwinnett County, Georgia, which includes a duplicate of this Notice of Removal to Federal Court, is being filed with the Clerk of the State Court of Gwinnett County, State of Georgia as provided by 28 U.S.C. § 1446(d). A copy of this Notice is attached as **Exhibit 2**.

8. Written notice of the filing of this Notice of Removal will be sent to Plaintiff, who is the only adverse party in this action, as provided in 28 U.S.C. §

1446(d). A copy of this notice is attached as **Exhibit 3**.

**WHEREFORE**, Wells Fargo requests that the above-described action filed against Wells Fargo by Plaintiff in the State Court of Gwinnet County, Georgia, be removed to this Court.

Respectfully submitted this 18th day of February, 2016.

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.**

Monarch Plaza, Suite 1600

3414 Peachtree Road, N.E.

Atlanta, Georgia 30326

Phone: (404) 577-6000

Facsimile: (404) 221-6501

[dhoward@bakerdonelson.com](mailto:dhoward@bakerdonelson.com)

[dmoore@bakerdonelson.com](mailto:dmoore@bakerdonelson.com)

**/s/ Daniel P. Moore**

Dylan W. Howard

Georgia Bar No. 370267

Daniel P. Moore

Georgia Bar No. 940480

*Counsel for Defendants Wells Fargo  
Bank, N.A. and Wells Fargo Bank N.A.,  
d/b/a America's Servicing Company*

**CERTIFICATE OF SERVICE**

This will certify service of a copy of the foregoing **NOTICE OF REMOVAL TO FEDERAL COURT** by the CM/ECF online filing system with the U.S. District Court for the Northern District of Georgia which will automatically send email notification to all counsel of record and by U.S. Mail upon the following:

Reginald Ware, *pro se*  
2555 Knox Street  
Atlanta, Georgia 30317

Respectfully submitted this 18th day of February, 2016.

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.**

Monarch Plaza, Suite 1600  
3414 Peachtree Road, N.E.  
Atlanta, Georgia 30326  
Phone: (404) 577-6000  
Facsimile: (404) 221-6501  
[dhoward@bakerdonelson.com](mailto:dhoward@bakerdonelson.com)  
[dmoore@bakerdonelson.com](mailto:dmoore@bakerdonelson.com)

**/s/ Daniel P. Moore**

Dylan W. Howard  
Georgia Bar No. 370267  
Daniel P. Moore  
Georgia Bar No. 940480  
*Counsel for Defendants Wells Fargo  
Bank, N.A. and Wells Fargo Bank N.A.,  
d/b/a America's Servicing Company*